

Exhibit 5 - Text of the Proposed Rule Change
Underlining indicates additions; [Brackets] indicate deletion

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PREFACE

All fee disputes concerning fees which are billed by the Exchange must be submitted to the Exchange in writing and must be accompanied by supporting documentation. All fee disputes must be submitted no later than ninety (90) calendar days after receipt of a billing invoice.

For purposes of assessing fees, the following references should serve as guidance. Fees and rebates are listed per contract per leg unless otherwise noted.

A “**Priority Customer**” is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Mercury Rule 100(a)(37A).

A “**Professional Customer**” is a person or entity that is not a broker/dealer and is not a Priority Customer.

A “**Non-ISE Mercury Market Maker**” is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

A “**Firm Proprietary**” order is an order submitted by a member for its own proprietary account.

A “**Broker-Dealer**” order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

A “**Mercury Appointed Market Maker**” is an ISE Mercury Market Maker who has been appointed by an Electronic Access Member pursuant to Section I, Table 4.

A “**Mercury Appointed Order Flow Provider**” is an Electronic Access Member who has been appointed by an ISE Mercury Market Maker pursuant to Section I, Table 4.

A “**Retail**” order is a Priority Customer order that originates from a natural person, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.

A “**Flash Order**” is an order that is exposed at the National Best Bid or Offer by the Exchange to all members for execution, as provided under Supplementary Material .02 to ISE Mercury Rule 1901.

A “**Regular Order**” is an order that consists of only a single option series and is not submitted with a stock leg.

A “**Crossing Order**” is an order executed in the Exchange’s Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (“PIM”) or submitted as a Qualified Contingent Cross order. For purposes of this Fee Schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

“**Responses to Crossing Order**” is any contra-side interest (i.e., orders & quotes) submitted after the commencement of an auction in the Exchange’s Facilitation Mechanism, Solicited Order Mechanism, Block Order Mechanism or Price Improvement Mechanism.

“**Penny Symbols**” are options overlying all symbols listed on ISE Mercury that are in the Penny Pilot Program. The current list of ISE Mercury-listed Penny Pilot Program symbols is available at http://www.ise.com/assets/files/products/productstraded/options_product_equityDownload.csv

“**Non- Penny Symbols**” are options overlying all symbols excluding Penny Symbols.

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Member Volume Program: Qualifying Tier Thresholds

Table 4

Tier	Total Affiliated <u>and/or</u> <u>Appointed</u> Priority Customer ADV
Tier 1	0-19,999
Tier 2	20,000-39,999
Tier 3	40,000-59,999
Tier 4	60,000-79,999
Tier 5	80,000+

- Any day that the market is not open for the entire trading day or the Exchange instructs Members in writing to route their orders to other markets may be excluded from the ADV calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.
- The highest tier threshold attained applies retroactively in a given month to all eligible traded contracts and applies to all eligible market participants.
- The Total Affiliated Priority Customer ADV category includes all Priority Customer volume executed on the Exchange in all symbols and order types, including volume executed in the PIM, Facilitation, and QCC mechanisms.
- All eligible volume from affiliated Members will be aggregated in determining applicable tiers, provided there is at least 75% common ownership between the Members as reflected on the Member’s Form BD, Schedule A.
- All eligible volume from a Mercury Appointed Order Flow Provider will be aggregated with its designated Mercury Appointed Market Maker’s eligible volume in determining the Mercury Appointed Market Maker’s applicable tiers, provided the Mercury Appointed Market Maker is designated by the Mercury Appointed Order Flow Provider in accordance with the below instructions.

- A Mercury Appointed Market Maker is eligible to receive and aggregate volume credit from both their affiliated Members and their Mercury Appointed Order Flow Provider. A Mercury Appointed Order Flow Provider will not receive volume credit from its Mercury Appointed Market Maker or the Mercury Appointed Market Maker's affiliates in determining its applicable tiers.
- [100% of eligible traded volume preferenced to a market maker pursuant to Supplementary Material .03 to Rule 713 will count towards the member's volume tier. Market Makers not preferenced on an order will receive credit for the volume the non-preferenced market maker executes.]
- Designating a Mercury Appointed Market Maker / Appointed Order Flow Provider: An ISE Mercury Market Maker appoints an Electronic Access Member as its Appointed Order Flow Provider and an Electronic Access Member appoints an ISE Mercury Market Maker as its Appointed Market Maker, for the purposes of the Fee Schedule, by each sending an email to bizdev@ise.com. These corresponding emails will be viewed as acceptance of the appointment.
- The Exchange will recognize one such designation for each party. A party may make a designation not more than once every 6 months, which designation shall remain in effect until the Exchange receives an email from either party indicating that the appointment has been terminated.

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